THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.29142 of 1995

Date: 14-09-2007

Between:

M.P. Venkat Reddy

... Petitioner

And

The District Collector and another ... Respondents

ORDER:

This writ petition has been filed questioning the order dated 13-07-1992 issued by the 2nd respondent, Mandal Revenue Officer, where under the Village Administrative Officer, Mukthapur village, Komirole Mandal was given power to seize the property of the petitioner worth Rs.10,843/- and to bring the same to public auction. The said order ha been issued under Section 8 of the A.P. Revenue Recovery Act, 1864 (for short 'the Act').

The case of the petitioner, in brief, is that the Executive Engineer, Irrigation Division No.VI, Canal Division, Bellary (Karnataka State) issued a tender notification in the year 1969 for execution of certain earth work excavation for embankment at Chainage 2-6 at Bobbukunta for 31.90 kms., in I K.M. and he was the highest tenderer for an amount of Rs.45,670/- and deposited the Earnest Money Deposit for an amount of Rs.1,250/- and completed the works.

The Executive Engineer issued a cheque for Rs.25,000/-. Further, the work was inspected by the Junior Engineer and a bill was prepared in M.Book No.744/50 for Rs.9,000/- and the balance amount was not paid by the Executive Engineer to the petitioner. After waiting for a long time, he got issued

a legal notice on 28-02-1982 for payment of total balance amounting to Rs.44,400/- but there was no response.

It is stated that the District Collector, Prakasham,

addressed the Mandal Revenue Officer, Komarolu Mandal on 13-07-1992 to seize the properties of the petitioner and put to auction for recovery of Rs.10,843/- for the works of Tungabhadra Project and the Mandal Revenue Officer issued orders to the Village Administrative Officer, Mukthapur asking whether the petitioner has landed property to seize and put to public auction and the same was not marked to the petitioner. The petitioner made a representation to the Mandal Revenue Officer seeking for supply of orders and thereupon the same was given to the petitioner on 15-03-1994. It is further stated that after 15-03-1994, he made representations to the Mandal Revenue Officer and the District Collector stating that he is not due any amount to the Chief Engineer, Thungabhadra Project, therefore the order of seizure is arbitrary and illegal and requested not to seize his property. No reply was given to the petitioner. However, pursuant to the impugned order, the Village Administrative Officer neither seized nor attached the property of the petitioner and he is in possession and cultivating the lands.

It is submitted by the learned counsel for the petitioner that the petitioner did not execute any works relating to the Thungabadhra Project but he executed certain works in respect of Karnataka Government and he is not due any amount to the Government of Andhra Pradesh. Therefore, no authority, particularly, Collector and the Mandal Revenue Officer, is having jurisdiction to issue the impugned order asking the petitioner to pay the amount mentioned in the impugned order, failing which, the property of the petitioner will be brought to public auction for realization of the same. However, in the affidavit filed by the petitioner it is mentioned that the property of the petitioner

is sought to be put to auction to recover an amount of Rs.10,843/- for the works of Thungabadra Project. But as could be seen from the impugned order, which does not specify the amount is relating of which work being executed by the petitioner.

The impugned order does not contain the required particulars, such as which work the petitioner has done to recover the amount. What will it contains is the money is in respect of Executive Engineer Cannals No.6, Division, Bellari. In the absence of any such particulars, the contention of the petitioner is that the petitioner cannot be compelled to pay the amount under the impugned order. Learned counsel appearing for the petitioner also submitted that the authorities under the Act have no jurisdiction to issue the impugned order, since the petitioner has not executed any works relating to the Government of Andhra Pradesh.

No counter has been filed on behalf of the respondents disputing the averments made by the petitioner in his affidavit.

The petitioner filed the copies of the legal notice dated 28-02-1982 and 15-08-1982 addressed to the Secretary Government of Karnataka, P.W. CADA, and Irrigation Department, Vidhanasaudha, Bangalore-1, calling upon to pay the amount due to the petitioner, with which, it is clear that there is no record to show that there was correspondence between the respondents herein and the petitioner, in respect of the amount mentioned in the impugned order, except the impugned order. In the absence of any material to the effect that the petitioner is due certain amount to the Government of Andhra Pradesh, it is not an obligation on the part of the petitioner to comply with the same.

Under the above facts and circumstances and as there is no record to show that the petitioner has executed certain works relating to the Government of Andhra Pradesh and in connection with which the petitioner due certain amount,
the respondent authorities cannot compel the petitioner to comply with the impugned order and the same is without jurisdiction. Therefore, the impugned order is liable to be set aside as the same is without jurisdiction.

Accordingly the impugned order is set aside and the Writ Petition is allowed. There shall be no order as to costs.

_____

JUSTICE G. CHANDRAIAH

Date: 14-09-2007
LSK